REMARKS

Claims 10-14, 17, 19-32 are now in this application.

In the Office action the examiner rejected claims 10-14, 17 and 19-29 as indefinite. In response, the language of claims 10, 11, 13, 14, and 17 which recites the "openings" has been revised so as to be consistent. It is believed that this should overcome this rejection.

Claim 10 has been revised to further recite that:

The holder body is "embodied as a rotationally symmetrical shallow body"

The middle region of the holder body has "an indentation with a flat bottom"

The valve diaphragm "covers the entire indentation and thus closes the at least two openings", and

The two openings remain covered until the pressure in the container reaches a defined overpressure "at which overpressure at least one of the openings forms a conduit for outflow of gas".

New claim 32 has also been added, which is similar in format to claim 30. However, this new claim 32 includes limitations similar to those which have been added to claim 10.

By this amendment, then, claim 10 and new claim 32 recite that the indentation has a flat bottom. This is a limitation which none of the references teach. In particular, the only reference which teaches any kind of recess or indentation is Blaser, wherein perhaps one of the grooves 15 could be considered to be an indentation. But none of the grooves of Blaser has a flat bottom, and thus the references as applied do not teach every item of structure which is recited in claim 10.

Regarding the rejection of claim 10 as unpatentable over the references to Blaser, Cope and Gunter et al., applicant again argues that claim 10 requires the valve diaphragm (22) to have two straight edges (24,25) opposite one another. As correctly stated in the rejection, the Blaser reference lacks these straight edges. The examiner has used the Cope reference in an improper attempt to overcome this deficiency of the Blaser reference.

This combination of references as put together by the examiner in the rejection is not a proper combination because Cope deals with pressurized containers and teaches a valve for adding pressure and holding air inside a container, which is exactly opposite to the operation of both Blaser and the present invention. Thus the Cope reference is non-analogous art which teaches away from any modification of Blaser, and also away from the present invention, i.e. Cope keeps air in, whereas Blaser's device, is designed to let air out and keep it out, as is applicant's.

Further, since the tape 23 of Cope is not positioned within a holder body, the teaching of a rectangular tape by Cope is not a teaching that is applicable to the valve diaphragm sitting within a holder as recited in claim 10. There is no proper combination which teaches tape applied within the confines of a holder to become a valve member. And likewise, the teachings of Gunter et al. also do not supply this deficiency of Blaser, because Gunter et al. also does not have a tape positioned within an indentation. At best, Gunter et al. has a tape positioned on a raised ridge 42, not in an indentation. And further, this tape does not seal the openings. The tape of Gunter et al. is used to hold a glob of silicone oil in place, which glob of silicon oil in turn seals the openings.

Even with these deficiencies in the examiner's rejection, claim 10 has previously been amended to specify at least two openings in the valve. Specifically, the number of openings being at least two is critical to the fact that a plurality of openings communicate through only one indentation. And by the present amendment the indentation now has a "**flat**" bottom with the openings positioned within this flat bottom. A plurality of openings located in the flat bottom of the indentation assures the reliability of the arrangement. In the presently claimed arrangement, even if one opening becomes clogged and thus inoperative for pressure equalization, the other opening remains operable. By a suitable design of the indentation connecting the plurality of openings, i.e. having a flat bottom in which the openings are positioned, a good response performance of the valve can be attained and assured.

This is a further characteristic which is not shown in any of the cited references. Not in Blaser, not in Cope, not in Gunter et al., and not even in the Domke reference which is cited and applied in a later rejection.

Regarding the rejection of claims 10, 13, 17, 19, 21-22, and 28-29 as unpatentable over Blaser in view of Cope and Gunter et al., applicants further disagree with the rejection for several additional reasons.

First, in the Blaser reference, there is mention of only a single opening (14), as shown in Fig. 1. This opening (14) is surrounded by concentric grooves (15), see column 3, lines 5-10. Therefore, the Blaser reference does not disclose a single indentation that connects two through openings with one another, as recited in claim 10. Because a plurality of through openings communicate with one another through an indentation in the present invention, the

gas outflow is more uniform and more assured than would be the case with only one through opening.

Also, the Blaser reference does not show parallel side faces of the tape as required by claim 10.

Next, the Cope reference is from a different field of invention. It has nothing to do with coffee valves which allow egress of air. Quite the opposite, the valve in the Cope reference does not permit any escape of gas from the interior of the container to the outside, but rather the valve of Cope allows ingress and blocks egress. This is apparent from the direction of the arrow pointing into the interior of the container as shown in Figs. 3 and 4 of Cope.

And the Gunter et al. reference uses silicone oil to seal the openings, not a tape. This is a much more complex arrangement, which requires a much more complex assembly process. For example, to assemble the valve of Gunter et al. special provisions must be made to inject the correct amount of silicone oil, and then also special provisions must be made to hold the oil in place while the membrane 44 is affixed to the ridge 42.

The subject matter of the present application is precisely the opposite of Cope. The present invention is specifically designed to allow the escape of gas from the interior of the package to the outside. With the valve of the Cope reference, buildup of pressure within the container is to be accomplished, not pressure reduction.

Regarding the rejection of claim 30, it is pointed out that the phrase "**consisting of**" in line 1 was specifically chosen because it limits the invention of this claim to **only two elements**, the holder body, and the valve diaphragm. However, the examiner's rejection

starts with the reference to Blaser with three elements of structure, the body 10, the diaphragm 20, and the clamping member 30. The examiner then indicates replacement of the diaphragm with the adhesive backed diaphragm from Cope. Thus, as specified in the rejection, the combination of Blaser and Cope does not meet the limitations as recited in claim 30, since the combination as set forth by the examiner does not **"consist of" only two elements** of structure. The combination as set forth in the rejection **"consists of"** three elements, the body 10, and clamping member 30 from Blaser, and the adhesive backed tape from Cope. This combination of Blaser and Cope does not meet the limitations of claim 30.

The structure recited in claim 30 provides an operating valve which is limited by the recitations in claim 30 to only two elements of structure. The device constructed by the examiner in his rejection provides a valve which consists of three elements. Thus, the structure constructed by the examiner in his rejection does not meet the limitations as delineated in claim 30.

Regarding the rejection of claims 11-12, 14, 20 and 23-27 as being unpatentable in view of Blaser, Cope, Gunter et al. and Domke, it is pointed out that the Domke reference involves a coffee valve located on the outside of the package, see Fig. 1. This contradicts claim 10 which, in lines 4-6, limits the valve structure to being on the inside of the package. This is shown in fig. 6 of the application.

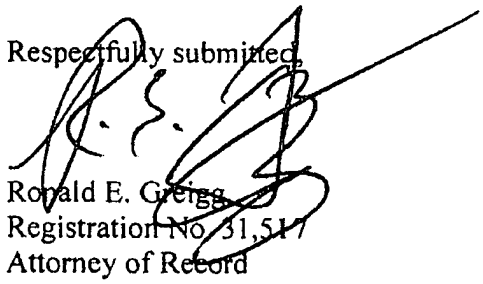
Further, the Domke reference does not show a plurality of through openings. As shown in fig. 3, the Domke reference only has a single opening (15), which is located between the wall (2) of the package and the diaphragm (19). Thus, the construction as

described in the Domke reference is fundamentally different from the structure of the invention as recited in these claims.

Moreover, these claims recite two elements of structure, a holder body and a valve diaphragm, although these elements are recited with a large amount of specificity. It is pointed out in this regard that combining four references to meet the limitations of two elements of structure points toward allowability. Although in theory there is no limit to the number of references it is appropriate to combine in a rejection, these references must combine in a way so as to make the limitations recited in a claim obvious. It is applicants' position that four references to meet the limitations of two elements of structure is a statement of non-obviousness.

For all of the above reasons, whether taken singly or taken together, entry of the amendment and allowance of the claims are courteously solicited.

Respectfully submitted,



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